

THE OFFICE ACTION

In the Office Action mailed February 22, 2006, the Examiner maintained his rejection of claims 1, 3-10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Nos. 6,006,034 to Heath ("Heath"), in view of 5,019,963 to Alderson ("Alderson") and 5,692,111 to Marbry et al. ("Marbry").

Claim 2 was rejected under §103(a) as being unpatentable over Heath in view of Alderson, Marbry and further in view of U.S. Patent No. 5,742,829 to Davis et al. ("Davis").

Claim 11 was rejected under §103(a) as being unpatentable over Heath in view of Alderson, Marbry and further in view of U.S. Patent No. 6,757,071 to Goodman et al. ("Goodman").

REMARKS

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of February 22, 2006.

Reconsideration of the Application is requested in light of the following comments. Claims 1-11 remain in this application.

A. The Drawings

In the Office Action Summary of the Office Action, the drawings were indicated as being objected to by the Examiner. However, there is no discussion of the drawings in the body of the Office Action. Applicants made corrections to address this objection in a previous amendment. Thus, Applicants request that the drawings be noted as being "accepted" on the Office Action Summary sheet.

B. Rejection Based on The Prior Art

The Examiner rejected claims 1, and 3-10 under 35 U.S.C. §103(a) as being unpatentable over Heath in view of Alderson and Marbry. Applicants respectfully traverse and would like to reiterate their prior arguments.

Heath is directed to a system and method for automatic application version upgrading. In the process, a client machine calls to the server machine and downloads any new versions of application program components onto the client machine. Heath is specifically directed to application programs, not print drivers.

Marbry, on the other hand, discloses a process for installing printer configuration data and drivers on local workstations when a user attempts to print to a network printer. In response to a request to print to a network printer, printer configuration information is copied to the workstation. This configuration information is then used to print the print job.

Unlike Heath, Marbry does not deal with the updating of programs or program components. Rather, it deals merely with the downloading of printer configuration information necessary to execute a print job. There is no comparison of various versions of a print driver by the workstation, nor the deleting of old versions.

Alderson, on the other hand, deals with a data processing network including a plurality of workstations connected to a host processor. The workstations send a signal to the host at designated times indicating the version of certain programs they contain. The host then determines if the workstations have the latest version and, if not, sends a copy of the new file to replace the version on the workstations. Thus, it is the host which compares the versions and uploads newer versions of the programs to the workstations, rather than the workstations themselves.

First, there is no motivation to combine Heath with either Alderson or Marbry. One skilled in the art practicing the invention of Heath would not be motivated to use the teachings disclosed in Marbry or Alderson since these relate to different processes, and there is no indication that these teachings would be suitable for use therein. That is, as detailed above, Heath relates to the client initiated and conducted updating of application programs, while Marbry relates to the downloading of print configuration data that was not previously stored on a client workstation (i.e. not an updating process), while Alderson relates to the server initiated and conducted process of updating programs on client workstations.

Thus, the proposed combination is impermissible and does not present a prima facie case of obviousness.

B. The Examiner's Rebuttal

In the latest Office Action, the Examiner addresses the Applicant's response by stating that "It is true that Heath's invention is directed to application program and does not specifically mention printer driver. An application program is the name of a group consist of different software programs. There are many types of application programs such as

word processor or printer driver.” The Examiner then cites U.S. Patent No. 6,993,205 to Lorie et al (“Lorie”) as defining a printer driver as an application program.

Applicant submits that the Examiner’s reliance on Lorie is misplaced and that Lorie’s definition is overbroad and not in accord with the accepted definition of what constitutes an “application program”.

In this respect, Applicant submits that software is generally divided into two different classes: systems software and applications software (“applications” or “applications programs”). For a discussion of this, please see the attached definitions from the www.webopedia.com website, which defines “application” and “systems software”. Exhibit A and B. “Applications” are defined as programs designed for end users such as word processors, etc., while “systems software” is defined as low level programs that interact with the computer at a basic level. Device drivers, including printer drivers, can be classified as such low level programs. Further support for the Applicant’s position that a printer driver is not considered a application program can be gained from Exhibit C, which is a part of a computer terminology glossary from the Microsoft support website, which distinguishes printer drivers from application programs where it states under the heading for “printer driver” that “Application programs can communicate properly with a variety of printers by using printer drivers.”

Still further support showing that a printer driver is not considered an application program can be found in thefreedictionary.com (Exhibit D), which defines a printer driver as “A software routine that converts an application program's printing request into the language the printer understands.” Thus, Applicant respectfully disagrees with the Examiner’s assertion that a printer driver is a type of application program. In fact, it is a separate type of software entirely. Thus, the Examiner’s mammals/dog analogy is inapplicable. Applicant respectfully requests the Examiner withdraw this rejection.

CONCLUSION

For the reasons detailed above, it is submitted all claims remaining in the application (Claims 1-11) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

No additional fee is believed to be required for this Response. However, the undersigned attorney of record hereby authorizes the charging of any necessary fees,

other than the issue fee, to Xerox Deposit Account No. 24-0037.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call Mark Svat, at Telephone Number (216) 861-5582.

Respectfully submitted,

FAY, SHARPE, FAGAN,
MINNICH & McKEE, LLP

Date

April 24, 2006



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Attachments: Exhibits A-D

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EXHIBIT A

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IT Discount Club

A program or group of programs designed for end users. Software can be divided into two general classes: systems software and applications software. Systems software consists of low-level programs that interact with the computer at a very basic level. This includes operating systems, compilers, and utilities for

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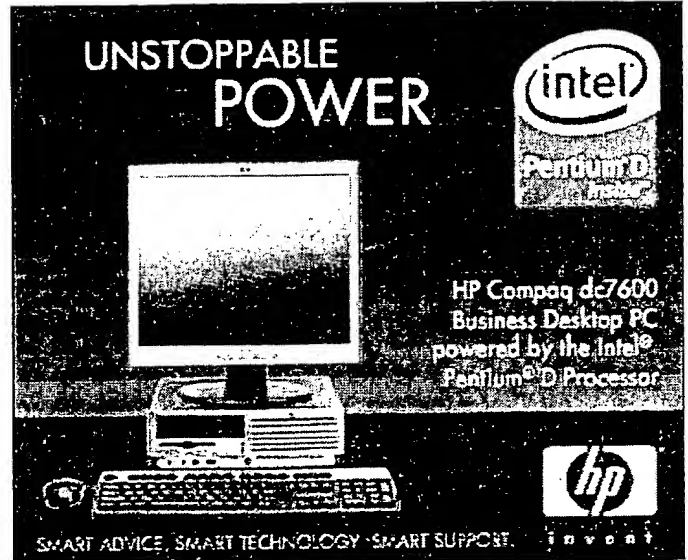
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managing computer resources.

In contrast, applications software (also called *end-user programs*) includes database programs, word processors, and spreadsheets. Figuratively speaking, applications software sits on top of systems software because it is unable to run without the operating system and system utilities.

Also see a diagram of n-tier application architecture in the quick reference section of Webopedia.



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Refers to the operating system and all utility programs that manage computer resources at a low level. Software is generally divided into systems software and applications software. Applications software comprises programs designed for an end user, such as word processors, database systems, and spreadsheet

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n. In word processors and other applications, the feature that displays a formatted document on the video monitor rather than sending it directly to the printer.

primary channel

n. The data-transmission channel in a communications device, such as a modem. *Compare* secondary channel.

Primary Domain Controller

n. 1. In Windows NT, a database providing a centralized administration site for resources and user accounts. The database allows users to log onto the domain, rather than onto a specific host machine. A separate account database keeps track of the machines in the domain and allocates the domain's resources to users. 2. In any local area network, the server that maintains the master copy of the domain's user accounts database and that validates logon requests. *Acronym:* PDC.

primitive

n. 1. In computer graphics, a shape, such as a line, circle, curve, or polygon, that can be drawn, stored, and manipulated as a discrete entity by a graphics program. A primitive is one of the elements from which a large graphic design is created. 2. In programming, a fundamental element in a language that can be used to create larger procedures that do the work a programmer wants to do.

printer

n. A computer peripheral that puts text or a computer-generated image on paper or on another medium, such as a transparency film. Printers can be categorized in any of several ways. The most common distinction is impact versus nonimpact. Impact printers physically strike the paper and are exemplified by pin dot-matrix printers and daisy-wheel printers; nonimpact printers include every other type of print mechanism, including laser, ink-jet, and thermal printers. Other possible methods of categorizing printers include (but are not limited to) the following: *See also* ball printer, character printer, color printer, daisy-wheel printer, dot-matrix printer, draft quality, electrophotographic printers, graphics printer, impact printer, ink-jet printer, ion-deposition printer, laser printer, LCD printer, LED printer, letter quality, line printer, near-letter-quality, nonimpact printer, page printer, parallel printer, serial printer, thermal printer, thermal wax-transfer printer, thimble printer. k:\compdict\database\4548.doc

Printer Control Language

n. A printer control language from Hewlett-Packard, used in its LaserJet, DeskJet, and RuggedWriter printer lines. Because of the LaserJet's dominance in the laser printer market, Printer Control Language has become a de facto standard. *Also called* Hewlett-Packard Printer Control Language, PCL. *Acronym:* PCL.

printer controller

n. The processing hardware in a printer, especially in a page printer. It includes the raster image processor, the memory, and any general-purpose microprocessors. A printer controller can also reside in a personal computer, attached via a high-speed cable to a printer that simply carries out its instructions. *Compare* printer engine.

printer driver

n. A software program designed to enable other programs to work with a particular printer without concerning themselves with the specifics of the printer's hardware and internal "language." Application programs can communicate properly with a variety of printers by using printer drivers, which handle all of the subtleties of each printer so that the application program doesn't have to. Today graphical user interfaces offer their own printer drivers, eliminating the need for an application that runs under the interface to have its own printer driver.

printer font

EXHIBIT D
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thefreedictionary.com

A software routine that converts an application program's printing request into the language the printer understands. For example, PostScript printer drivers create a file that is accepted by PostScript printers. HP printer drivers create PCL files and so on. Drivers for Windows-only printers rasterize the pages (RIP function) and send the actual bit patterns to the printer, which are applied to the drum by the laser or LED array. Contrast with printer protocol.

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